

**SUPREME COURT OF CALIFORNIA  
ORAL ARGUMENT CALENDAR  
SAN FRANCISCO SESSION  
SEPTEMBER 13, 2005**

**(FIRST AMENDED)**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom, located at 350 McAllister Street, Fourth Floor, San Francisco, California, on September 13, 2005.

**TUESDAY, SEPTEMBER 13, 2005—9:00 A.M.**

- (1) S125572 People v. Murphy (Mildred) (*Blease, J. assigned Justice Pro Tempore.*)
- (2) S119498 State Personnel Bd. v. Dept. of Personnel Admin. (and related cases) (*Aaron, J. assigned Justice Pro Tempore.*)
- (3) S117964 People v. Yartz (Norman) (*Ardaiz, P.J. assigned Justice Pro Tempore*)

**1:30 P.M.**

- (4) S127505 People v. Partida (Jose) (*Ashmann-Gerst, J. assigned Justice Pro Tempore.*)
- (5) S057063 People v. Elliot (Michael) [*Automatic Appeal*] (*Aronson, J. assigned Justice Pro Tempore.*)
- (6) S038073 People v. Manriquez (Abelino) [*Automatic Appeal*] (*Benke, J. assigned Justice Pro Tempore.*)

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GEORGE  
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with rule 18(c) of the California Rules of Court.

**SUPREME COURT OF CALIFORNIA  
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The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

**TUESDAY, SEPTEMBER 13, 2005—9:00 A.M.**

***(1) People v. Murphy (Mildred), S125572 (Blease, J. assigned Justice Pro Tempore.)***

#04-79 People v. Murphy (Mildred), S125572. (D040040; 118 Cal.App.4th 821; Superior Court of San Diego County; SCE217093.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Did exigent circumstances excuse police officers' failure to comply with the knock-notice rule before entering defendant's house to conduct a warrantless search for drugs pursuant to his condition of probation, where they had observed drug transactions at the house shortly before the entry and, seconds before entering, had detained an individual outside the house while loudly announcing their presence and purpose? (See *United States v. Banks* (2003) 540 U.S. 31, 124 S.Ct. 521, 157 L.Ed.2d 343.) (2) Can a violation of the knock-notice rule during a warrantless search of a house pursuant to a defendant's condition of probation be excused by the doctrine of inevitable discovery?

***(2) State Personnel Bd. v. Department of Personnel Admin. (and related cases), S119498 (Aaron, J. assigned Justice Pro Tempore.)***

#03-137 State Personnel Bd. v. Department of Personnel Admin. (and related cases), S119498. (C032633, C034943, C040263; 111 Cal.App.4th 839; Superior Court of Sacramento County; 98CS 03314, 99CS00260, 01CS00109.) Petition for review after the Court of Appeal affirmed the judgments in two civil actions and dismissed as moot the appeal in a third action. The case presents the following issue: Do the disciplinary provisions of memoranda of understanding between the Department of Personnel Administration and certain state employee unions, under which employees may elect to have employer disciplinary decisions reviewed either by the State Personnel Board directly or under an alternative grievance and arbitration procedure that does not provide for review by the State Personnel Board, violate article VII, section 3(a) of the California Constitution, which provides that “[t]he [State Personnel Board] shall enforce the civil service statutes and, by majority vote of all its members, shall prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions”?

***(3) People v. Yartz (Norman), S117964 (Ardaiz, P.J. assigned Justice Pro Tempore.)***

#03-123 People v. Yartz (Norman), S117964. (C035317; 109 Cal.App.4th 1660; Superior Court of San Joaquin County; 12248C.) Petition for review after the Court of Appeal reversed an order of commitment as a sexually violent predator. This case presents the following issue: Can a conviction based on a “no contest” plea prior to the 1982 amendments to Penal Code section 1016 (Stats. 1982, ch. 390, § 3) be used as a predicate prior conviction in a proceeding under the Sexually Violent Predator Act, or is such use barred by the language of section 1016 in effect at the time the no contest plea was entered, which provided that

such a plea “may not be used against the defendant as an admission in any civil suit based upon or growing out of the act upon which the criminal prosecution is based”?

**1:30 P.M.**

***(4) People v. Partida (Jose), S127505 (Ashmann-Gerst, J. assigned Justice Pro Tempore.)***

#04-123 People v. Partida (Jose), S127505. (B161356; 121 Cal.App.4th 202; Superior Court of Los Angeles County; TA061403.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. This case presents the following issues: (1) Did defendant forfeit his federal due process claim on appeal by failing to object on that ground in the trial court? (2) Does the forfeiture exception articulated in *People v. Yeoman* (2003) 31 Cal.4th 93, 117, apply when the appellate claim is otherwise governed by Evidence Code section 353(a)? (3) Did the admission of testimony from a gang expert violate either Evidence Code section 352 or federal due process?

***(5) People v. Elliot (Michael), S057063 [Automatic Appeal] (Aronson, J. assigned Justice Pro Tempore.)***

This matter is an automatic appeal from a judgment of death.

***(6) People v. Manriquez (Abelino), S038073 [Automatic Appeal] (Benke, J. assigned Justice Pro Tempore.)***

This matter is an automatic appeal from a judgment of death.